

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

IN THE MATTER OF THE COMPLAINT
OF FOSS OFFSHORE WIND HOLDINGS,
LLC, AS ALLEGED BAREBOAT
CHARTERER, AND FOSS MARITIME
COMPANY, LLC, AS ALLEGED SUB-
BAREBOAT CHARTERER OF THE
VESSEL REBEKAH, OFFICIAL
NUMBER 623866, AND HER ENGINES,
MACHINERY, GEAR, TACKLE,
APPAREL AND ALL OTHER
APPURTENANCES, PETITIONING FOR
EXONERATION FROM AND/OR
LIMITATION OF LIABILITY

IN ADMIRALTY

NO. 2:24-CV-00237-JNW

**TRADEWINDS TOWING, LLC AND
MAGAZINE TUG, LLC'S RESPONSE IN
OPPOSITION TO STEPHEN
DUFRENE'S MOTION TO LIFT STAY**

NOW INTO COURT, through undersigned counsel, comes Tradewinds Towing, LLC and Magazine Tug, LLC ("Limitation Petitioners"), who file this Response in Opposition to Stephen Dufrene's ("Dufrene") Motion to Lift Stay [Dkt. 35].

Dufrene asserted this Motion seeking to lift this Honorable Court's stay of his concurrent suit pending in King County, Washington. In furtherance of this Motion, Dufrene filed a Stipulation [Dkt. 34] that he will not seek to enforce a damages award greater than the value of the ship and its freight until the shipowner's right to limitation has been determined by this Court.

**TRADEWINDS TOWING, LLC AND MAGAZINE TUG, LLC'S
RESPONSE IN OPPOSITION TO STEPHEN DUFRENE'S
EMERGENCY MOTION TO LIFT STAY - 1**
CASE NO. 2:24-CV-00237-JNW

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1 Dufrene's Motion is premised on the notion that because he is the single claimant to these
 2 proceedings, his stipulation allows the Court to lift the stay under *Odeco Oil and Gas Co., Drilling*
 3 *v. Bonnette*, 74 F.3d 671, 674 (5th Cir. 1996) (permitting the stay to be lifted when all claimants
 4 enter the necessary stipulation that the federal court has exclusive jurisdiction over the limitation
 5 and that the claimants will not seek to enforce a damage award greater than the vessel's declared
 6 value.) However, Dufrene is not the sole claimant.

8 Limitation Petitioners have asserted indemnity and contribution claims [Dkt. 19] against
 9 Foss Offshore Wind Holdings, LLC and Foss Maritime Company, LLC (collectively "Foss").
 10 Foss has also asserted indemnity and contribution claims [Dkt. 18] against Limitation Petitioners.
 11 These crossclaims jeopardize the Limitation Petitioners' statutory right to limited liability, as
 12 parties seeking contribution and indemnity are "claimants" within the meaning of the Limitation
 13 Act. *See Odeco Oil and Gas*, 74 F.3d at 675 ("[P]arties seeking indemnification and contribution
 14 from a shipowner must be considered claimants within the meaning of the Limitation Act."); *see*
 15 *also In re Marquette Transp. Co. Gulf-Inland, LLC*, 13-5114, 2014 WL 5795200, at *1-2 (E.D.
 16 La. Oct. 22, 2014) (recognizing that a party "seeking indemnity and contribution" from a vessel
 17 owner was a "claimant" within the meaning of the Limitation Act); *In re Complaint of Port Arthur*
 18 *Towing Co. on Behalf of M/V Miss Carolyn*, 42 F.3d 312, 316 (5th Cir. 1995) (recognizing that
 19 "a 'claimant' in this context includes a codefendant who is asserting a cross claim for
 20 indemnification, costs, and attorneys' fees"); *In re ADM/Growmark River System, Inc.*, 234 F.3d
 21 881, 886 (5th Cir. 2000) (recognizing that "parties seeking indemnification and contribution from
 22 a shipowner must be considered claimants within the meaning of the Limitation Act") (*citing*
 23 *Odeco Oil and Gas*, 74 F.3d at 675).

1 Dufrene is thus not the sole claimant to this action. The ability to lift the stay as established
2 by *Odeco* is premised on all claimants to the action entering the necessary stipulation. Because
3 Limitation Petitioners and Foss have not joined in the necessary stipulation, the stay cannot be
4 lifted.

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6 DATED: August 13, 2024.

7
8 Respectfully submitted,

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